

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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|------------------------------|---|-----------|
| EL CAM BEY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 1:19CV928 |
| |) | |
| SHEFFIELD FINANCIAL, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

This matter is before this court for review of the Recommendation filed on November 1, 2019, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 18.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous and for failing to state a claim upon which relief may be granted and that Defendants' Motion to Dismiss, (Doc. 6), Plaintiff's Motion to Change Venue, (Doc. 9), and Plaintiff's Motion for Joinder, (Doc. 16), be terminated as moot in light of the Court's Recommendation that the case be dismissed. The Recommendation was served on the parties to this action on November 1, 2019, (Doc. 19). Plaintiff timely filed objections, (Doc. 21), to the Recommendation.

Plaintiff also filed a Motion to Consolidate, (Doc. 23), and a Motion for Change of Venue, (Doc. 24), seeking to consolidate this case with an action he filed in state court in California, and seeking to transfer venue to California. However, this court could not consolidate this action with a state case in California, and there is no basis to transfer this case to California, particularly given the deficiencies noted in the Recommendation. If Plaintiff has claims that he wants to pursue in California state court, those claims can be considered by that court. Finally, Plaintiff filed an Amended Complaint, (Doc. 25), but Plaintiff still failed to pay the \$400.00 filing fee or properly complete the forms, and the Amended Complaint fails to cure the deficiencies noted in the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate

Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 18), is **ADOPTED**. **IT IS FURTHER ORDERED** that this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B) for being frivolous and for failing to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that Defendants' Motion to Dismiss, (Doc. 6), Plaintiff's Motion for Change of Venue, (Doc. 9), Plaintiff's Motion to Joinder BB&T, (Doc. 16), Plaintiff's Motion to Consolidate, (Doc. 23), and Plaintiff's Motion for Change of Venue, (Doc. 24), are **DENIED AS MOOT**.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 21st day of January, 2020.

William L. Oshun, Jr.

United States District Judge